REMARKS/ARGUMENTS

Claims 1-12 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kent, (USPN 5,659,881). Applicants, however, strongly disagree and respectfully traverse the rejection.

MPEP § 2131 provides:

> A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F. 2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim ....

Contrary to the Examiner's position that all elements of independent Claims 1 and 9 are disclosed in the Kent reference, the step of "*in the event of a system restart*, establishing service for the sites in order of the restart sequence" is not, so the rejection is unsupported by the art and should be withdrawn [emphasis added].

The Examiner asserts that

Regarding claim 1, Kent teaches in a communication system having a plurality of communication devices distributed among one or more sites (= multi-site environment with a plurality of communication devices) [see Fig. 1], a method comprising the steps of:

determining a rule-based criteria for prioritizing the sites (= determining ruled-based criteria for call priority in different sites) [see Abstract and Col. 4, Lines 24-38];

determining, based on the criteria, a restart sequence for the sites and in the event of a system restart, establishing service for the sites in order of the restart sequence (= determining event sequence for the calls from different sites and establishing the call service for different sites in priority) [see Col. 13, Line 33 to Col. 14, Line 44].

However, the Examiner appears to be mistaken. Contrary to the Examiner's position, that all elements of independent Claims 1 and 9 are found in the Kent reference, the step of "*in the event of a system restart*, establishing service for the sites in order of the restart sequence" is not. Described in Col. 13, Line 33 to Col. 14, Line 44 of the Kent reference is call arbitration where two calls arrive at nearly the same moment (Kent, col. 13, line 46-47 and col. 14, lines 3-4). In Kent, calls are given a call priority based upon the site number for the purpose of call arbitration. Kent does not address "system restart" at all. Kent does not address "*in the event of a system restart,* establishing service for the sites in order of the restart sequence" as required by the claims. As support, there is no mention of the limitation to "system restart" or "restart" in Kent because Kent is not concerned with "system restart" as required by Applicants' claimed invention. Because this step is missing from the Kent reference, a rejection under 35 U.S.C. § 102(b) is improper and should be withdrawn.

Further, the Examiner asserts

> Regarding claim 7, Kent further teaches the method of claim 1, wherein the step of determining a rule-based criteria comprises defining a console site as a highest priority site based on a number of monitored talkgroups at the console site [see Col. 14, Line 53 to Col. 15, Line 5].

In addition to the above remarks, Applicants' further remark that contrary to the Examiner's position that all elements of Claim 7 are found in the Kent reference, the limitation to "a number of monitored talkgroups at the console site" is not. Described in Col. 14, Line 53 to Col. 15, Line 5 of the Kent reference is a higher priority number of a site, not a quantity or the "number of talkgroups at the console site" as the claimed invention requires. Because this limitation is missing from the Kent reference, a rejection under 35 U.S.C. § 102(b) is improper and should be withdrawn. Further, as mentioned above, the Kent reference does not

With respect to Claim 9, in addition to the above remarks, contrary to the Examiner's position, that all elements of independent Claim 9 are found in the Kent reference, the step of

"obtaining system usage data associated with the sites" is not. There is mention of call logs (col. 6, lines 13-14' col. 9, lines 47-50' col. 10, lines 10-13); however, such a mention is hardly a teaching to "obtaining system usage data associated with the sites. Since there is no mention of this step as required by Applicants' claimed invention, a rejection under 35 U.S.C. § 102(b) is improper and should be withdrawn.

In addition, Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent, (USPN 5,659,881). Applicants, however, strongly disagree and respectfully traverse the rejection.

MPEP § 2141.03 requires:

> To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Regarding Claims 1-17, as mentioned above, the step of "*in the event of a system restart*, establishing service for the sites in order of the restart sequence" is not taught or suggested by the Kent reference, so the rejection is unsupported by the art and should be withdrawn. As such, a rejection under 35 U.S.C. 103(a) is unsupported by the art and should be withdrawn.

The Applicants believe that the subject application is in condition for allowance. Such action is earnestly solicited by the Applicants. Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

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